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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,314	06/20/2003	Jian Zhao	056647-1017	6959
38706	7590	07/29/2005	EXAMINER	
FOLEY & LARDNER LLP 1530 PAGE MILL ROAD PALO ALTO, CA 94304			DENTZ, BERNARD I	
			ART UNIT	PAPER NUMBER
			1625	
DATE MAILED: 07/29/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/601,314

Applicant(s)

ZHAO ET AL.

Examiner

Bernard Dentz

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 11 May 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 75-95 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 75-95 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Applicants have replaced the elected claims with claims 75-95.

Claims 75-95 are rejected under 35 U.S.C. 102(b) as being anticipated by Vitasyn for basically the reasons of record.

Claims 75-95 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vitasyn for the reasons of record.

Claims 75-95 are rejected under 35 U.S.C. 102(b) as being anticipated by Abe et al for the reasons of record.

Claim 75-95 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abe et al for essentially the reasons of record.

Applicant's arguments filed 5-11-2005 have been fully considered but they are not persuasive. Note most importantly that Abe et al implicitly teaches that low density lipoprotein-cholesterol is lowered because it recites data showing that the theaflavins, the major component of black tea polyphenols, are excellent inhibitors of squalene epoxidase (SE). (SE) controls the throughput from squalene to sterols in cholesterol biogenesis. If sterols are reduced both high and low density lipoprotein-cholesterol would be reduced. Also note the next to last sentence at p.49, col. 1, par. 1. "Therefore, like green tea, black tea would be expected to be an excellent beverage for lowering cholesterol as well as cancer prevention."

Note in line with the above that both references relate that black and green teas can be used to treat hyperlipidemia. Note also the teaching of Vitasyn in the paragraph bridging p. 6 and 7 that epicatechin and epigallocatechin gallates of green tea were found to reduce LDL and the recitation of claim 16 that they and theaflavin and the

theaflavin gallates improve the atherogenic index in persons with cardiovascular risk factors.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bernard Dentz whose telephone number is 571-272-0683. The examiner can normally be reached on Mon-Fri from 8 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang, can be reached on 571 272-0562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dentz

7-20-2005



BERNARD DENTZ
PRIMARY EXAMINER
GROUP 1600